

GENERAL CONDITIONS INCLUDING COMPLIANCE MONITORING AND CLOSURE PLAN

Testimony of Chris Davis

INTRODUCTION

The project's General Compliance Conditions of Certification, including Compliance Monitoring and Closure Plan (Compliance Plan) have been established as required by Public Resources Code section 25532. The plan provides a means for assuring that the facility is constructed, operated and closed in compliance with public health and safety, environmental and other applicable regulations, guidelines, and conditions adopted or established by the California Energy Commission and specified in the written decision on the Application for Certification or otherwise required by law.

The Compliance Plan is composed of elements that:

- set forth the duties and responsibilities of the Compliance Project Manager (CPM), the project owner, delegate agencies, and others;
- set forth the requirements for handling confidential records and maintaining the compliance record;
- state procedures for settling disputes and making post-certification changes;
- state the requirements for periodic compliance reports and other administrative procedures that are necessary to verify the compliance status for all Energy Commission approved conditions of certification;
- establish requirements for facility closure plans; and
- specify conditions of certification for each technical area containing the measures required to mitigate any and all potential adverse project impacts associated with construction, operation and closure below a level of significance. Each specific condition of certification also includes a verification provision that describes the method of assuring that the condition has been satisfied.

DEFINITIONS

The following terms and definitions are used to establish when Conditions of Certification are implemented.

PRE-CONSTRUCTION SITE MOBILIZATION

Pre-construction site mobilization consists of limited activities at the site to allow for the installation of fencing, construction trailers, construction trailer utilities, and construction trailer parking at the site. Limited ground disturbance, grading, and trenching associated with the above mentioned pre-construction activities is considered part of pre-construction site mobilization. Walking, driving or parking a passenger vehicle, pickup truck and light vehicles is allowable during pre-construction site mobilization.

CONSTRUCTION

Onsite work to install permanent equipment or structures for any facility. This includes the following:

Ground disturbance: Ground disturbance refers to activities that result in the removal of top soil or vegetation at the site beyond site mobilization needs, and for access roads and linear facilities.

Grading, boring, and trenching: Grading, boring, and trenching refers to activities that result in subsurface soil work at the site and for access roads and linear facilities, e.g., alteration of the topographical features such as leveling, removal of hills or high spots, moving of soil from one area to another, and removal of soil.

Notwithstanding the definitions of ground disturbance, and grading, boring, and trenching above, construction does **not** include the following:

1. the installation of environmental monitoring equipment;
2. a soil or geological investigation;
3. a topographical survey;
4. any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility; and
5. any work to provide access to the site for any of the purposes specified in "Construction" 1, 2, 3, or 4 above.

START OF COMMERCIAL OPERATION

For compliance monitoring purposes, "commercial operation" begins after the completion of start-up and commissioning, when the power plant has reached reliable steady-state production of electricity at the rated capacity. At the start of commercial operation, plant control is usually transferred from the construction manager to the plant operations manager.

COMPLIANCE PROJECT MANAGER RESPONSIBILITIES

The Compliance Project Manager (CPM) shall oversee the compliance monitoring and is responsible for:

1. Ensuring that the design, construction, operation, and closure of the project facilities are in compliance with the terms and conditions of the Energy Commission Decision;
2. Resolving complaints;
3. Processing post-certification changes to the conditions of certification, project description (petition to amend), and ownership or operational control (petition for change of ownership) (See instructions for filing petitions);
4. Documenting and tracking compliance filings; and

5. Ensuring that compliance files are maintained and accessible.

The CPM is the contact person for the Energy Commission and will consult with appropriate responsible agencies, Energy Commission, and staff when handling disputes, complaints, and amendments.

All project compliance submittals are submitted to the CPM for processing. Where a submittal required by a condition of certification requires CPM approval, the approval will involve all appropriate Energy Commission staff and management. All submittals must include searchable electronic versions (pdf or word files).

PRE-CONSTRUCTION AND PRE-OPERATION COMPLIANCE MEETING

The CPM usually schedules pre-construction and pre-operation compliance meetings prior to the projected start-dates of construction, plant operation, or both. The purpose of these meetings is to assemble both the Energy Commission's and project owner's technical staff to review the status of all pre-construction or pre-operation requirements, contained in the Energy Commission's conditions of certification. This is to confirm that all applicable conditions of certification have been met, or if they have not been met, to ensure that the proper action is taken. In addition, these meetings ensure, to the extent possible, that Energy Commission conditions will not delay the construction and operation of the plant due to oversight and to preclude any last minute, unforeseen issues from arising. Pre-construction meetings held during the certification process must be publicly noticed unless they are confined to administrative issues and processes.

ENERGY COMMISSION RECORD

The Energy Commission shall maintain the following documents and information as a public record, in either the Compliance file or Dockets file, for the life of the project (or other period as required):

- All documents demonstrating compliance with any legal requirements relating to the construction and operation of the facility;
- All monthly and annual compliance reports filed by the project owner;
- All complaints of noncompliance filed with the Energy Commission; and
- All petitions for project or condition of certification changes and the resulting staff or Energy Commission action.

PROJECT OWNER RESPONSIBILITIES

The project owner is responsible for ensuring that the compliance conditions of certification and all other conditions of certification that appear in the Commission Decision are satisfied. The compliance conditions regarding post-certification changes specify measures that the project owner must take when requesting changes in the project design, conditions of certification, or ownership. Failure to comply with any of the conditions of certification or the compliance conditions may result in reopening of the case and revocation of Energy Commission certification; an administrative fine; or other action as appropriate. A summary of the Compliance Conditions of Certification is included as **Compliance Table 1** at the conclusion of this section.

COMPLIANCE CONDITIONS OF CERTIFICATION

Unrestricted Access (COMPLIANCE-1)

The CPM, responsible Energy Commission staff, and delegated agencies or consultants shall be guaranteed and granted unrestricted access to the power plant site, related facilities, project-related staff, and the records maintained on-site, for the purpose of conducting audits, surveys, inspections, or general site visits. Although the CPM will normally schedule site visits on dates and times agreeable to the project owner, the CPM reserves the right to make unannounced visits at any time.

Compliance Record (COMPLIANCE-2)

The project owner shall maintain project files on-site or at an alternative site approved by the CPM for the life of the project, unless a lesser period of time is specified by the conditions of certification. The files shall contain copies of all “as-built” drawings, documents submitted as verification for conditions, and other project-related documents.

Energy Commission staff and delegate agencies shall, upon request to the project owner, be given unrestricted access to the files maintained pursuant to this condition.

Compliance Verification Submittals (COMPLIANCE-3)

Each condition of certification is followed by a means of verification. The verification describes the Energy Commission’s procedure(s) to ensure post-certification compliance with adopted conditions. The verification procedures, unlike the conditions, may be modified as necessary by the CPM.

Verification of compliance with the conditions of certification can be accomplished by the following:

1. Monthly and/or annual compliance reports, filed by the project owner or authorized agent, reporting on work done and providing pertinent documentation, as required by the specific conditions of certification;
2. Appropriate letters from delegate agencies verifying compliance;
3. Energy Commission staff audits of project records; and/or
4. Energy Commission staff inspections of work, or other evidence that the requirements are satisfied.

Verification lead times associated with start of construction may require the project owner to file submittals during the certification process, particularly if construction is planned to commence shortly after certification.

A cover letter from the project owner or authorized agent is required for all compliance submittals and correspondence pertaining to compliance matters. **The cover letter subject line shall identify the project by AFC number, the appropriate condition(s) of certification by condition number(s), and a brief description of the subject of the submittal.** The project owner shall also identify those submittals **not** required by a

condition of certification with a statement such as: "This submittal is for information only and is not required by a specific condition of certification." When submitting supplementary or corrected information, the project owner shall reference the date of the previous submittal and CEC submittal number.

The project owner is responsible for the delivery and content of all verification submittals to the CPM, whether such condition was satisfied by work performed by the project owner or an agent of the project owner.

All hardcopy submittals shall be addressed as follows:

**Chris Davis
(Docket No. 08-AFC-4C)
California Energy Commission
1516 Ninth Street (MS-2000)
Sacramento, CA 95814**

Those submittals shall be accompanied by a searchable electronic copy, on a CD or by e-mail, as agreed upon by the CPM.

If the project owner desires Energy Commission staff action by a specific date, that request shall be made in the submittal cover letter and shall include a detailed explanation of the effects on the project if that date is not met.

Pre-Construction Matrix and Tasks Prior to Start of Construction (COMPLIANCE-4)

Prior to commencing construction, a compliance matrix addressing only those conditions that must be fulfilled before the start of construction shall be submitted by the project owner to the CPM. This matrix will be included with the project owner's first compliance submittal or prior to the first pre-construction meeting, whichever comes first. It will be submitted in the same format as the compliance matrix described below.

Construction shall not commence until the pre-construction matrix is submitted, all pre-construction conditions have been complied with, and the CPM has issued a letter to the project owner authorizing construction. Various lead times for submittal of compliance verification documents to the CPM for conditions of certification are established to allow sufficient staff time to review and comment and, if necessary, allow the project owner to revise the submittal in a timely manner. This will ensure that project construction may proceed according to schedule.

Failure to submit compliance documents within the specified lead-time may result in delays in authorization to commence various stages of project development.

If the project owner anticipates commencing project construction as soon as the project is certified, it may be necessary for the project owner to file compliance submittals prior to project certification. Compliance submittals should be completed in advance where the necessary lead time for a required compliance event extends beyond the date anticipated for start of construction. The project owner must understand that the

submittal of compliance documents prior to project certification is at the owner's own risk. Any approval by Energy Commission staff is subject to change, based upon the Commission Decision.

COMPLIANCE REPORTING

There are two different compliance reports that the project owner must submit to assist the CPM in tracking activities and monitoring compliance with the terms and conditions of the Energy Commission Decision. During construction, the project owner or authorized agent will submit Monthly Compliance Reports. During operation, an Annual Compliance Report must be submitted. These reports, and the requirement for an accompanying compliance matrix, are described below. The majority of the conditions of certification require that compliance submittals be submitted to the CPM in the monthly or annual compliance reports.

Compliance Matrix (COMPLIANCE-5)

A compliance matrix shall be submitted by the project owner to the CPM along with each monthly and annual compliance report. The compliance matrix is intended to provide the CPM with the current status of all conditions of certification in a spreadsheet format. The compliance matrix must identify:

1. The technical area;
2. The condition number;
3. A brief description of the verification action or submittal required by the condition;
4. The date the submittal is required (e.g., 60 days prior to construction, after final inspection, etc.);
5. The expected or actual submittal date;
6. The date a submittal or action was approved by the chief building official (cbo), cpm, or delegate agency, if applicable;
7. The compliance status of each condition, e.g., "not started," "in progress" or "completed" (include the date); and
8. If the condition was amended, the date of the amendment.

Satisfied conditions shall be placed at the end of the matrix.

Monthly Compliance Report (COMPLIANCE-6)

The first Monthly Compliance Report is due one month following the Energy Commission business meeting date upon which the project was approved, unless otherwise agreed to by the CPM. The first Monthly Compliance Report shall include the AFC number and an initial list of dates for each of the events identified on the **Key Events List**. **The Key Events List Form is found at the end of this section.**

During pre-construction and construction of the project, the project owner or authorized agent shall submit an original and an electronic searchable version of the Monthly Compliance Report within 10 working days after the end of each reporting month. Monthly Compliance Reports shall be clearly identified for the month being reported. The reports shall contain, at a minimum:

1. A summary of the current project construction status, a revised/updated schedule if there are significant delays, and an explanation of any significant changes to the schedule;
2. Documents required by specific conditions to be submitted along with the Monthly Compliance Report. Each of these items must be identified in the transmittal letter, as well as the conditions they satisfy and submitted as attachments to the Monthly Compliance Report;
3. An initial, and thereafter updated, compliance matrix showing the status of all conditions of certification (fully satisfied conditions do not need to be included in the matrix after they have been reported as completed);
4. A list of conditions that have been satisfied during the reporting period, and a description or reference to the actions that satisfied the condition;
5. A list of any submittal deadlines that were missed, accompanied by an explanation and an estimate of when the information will be provided;
6. A cumulative listing of any approved changes to conditions of certification;
7. A listing of any filings submitted to, or permits issued by, other governmental agencies during the month;
8. A projection of project compliance activities scheduled during the next two months. The project owner shall notify the CPM as soon as any changes are made to the project construction schedule that would affect compliance with conditions of certification;
9. A listing of the month's additions to the on-site compliance file; and
10. A listing of complaints, notices of violation, official warnings, and citations received during the month, a description of the resolution of the resolved actions, and the status of any unresolved actions.

All sections, exhibits, or addendums shall be separated by tabbed dividers or as acceptable by the CPM.

Annual Compliance Report (COMPLIANCE-7)

After construction is complete, the project owner shall submit Annual Compliance Reports instead of Monthly Compliance Reports. The reports are for each year of commercial operation and are due to the CPM each year at a date agreed to by the CPM. Annual Compliance Reports shall be submitted over the life of the project unless

otherwise specified by the CPM. Each Annual Compliance Report shall include the AFC number, identify the reporting period and shall contain the following:

1. An updated compliance matrix showing the status of all conditions of certification (fully satisfied conditions do not need to be included in the matrix after they have been reported as completed);
2. A summary of the current project operating status and an explanation of any significant changes to facility operations during the year;
3. Documents required by specific conditions to be submitted along with the Annual Compliance Report. Each of these items must be identified in the transmittal letter, with the condition it satisfies, and submitted as attachments to the Annual Compliance Report;
4. A cumulative listing of all post-certification changes approved by the Energy Commission or cleared by the CPM;
5. An explanation for any submittal deadlines that were missed, accompanied by an estimate of when the information will be provided;
6. A listing of filings submitted to, or permits issued by, other governmental agencies during the year;
7. A projection of project compliance activities scheduled during the next year;
8. A listing of the year's additions to the on-site compliance file;
9. An evaluation of the on-site contingency plan for unplanned facility closure, including any suggestions necessary for bringing the plan up to date [see Compliance Conditions for Facility Closure addressed later in this section]; and
10. A listing of complaints, notices of violation, official warnings, and citations received during the year, a description of the resolution of any resolved matters, and the status of any unresolved matters.

Confidential Information (COMPLIANCE-8)

Any information that the project owner deems confidential shall be submitted to the Energy Commission's Dockets Unit with an application for confidentiality pursuant to Title 20, California Code of Regulations, section 2505(a). Any information that is determined to be confidential shall be kept confidential as provided for in Title 20, California Code of Regulations, section 2501 et. seq.

Annual Energy Facility Compliance Fee (COMPLIANCE-9)

Pursuant to the provisions of Section 25806(b) of the Public Resources Code, the project owner is required to pay an annual compliance fee, which is adjusted annually. The amount of the fee for FY2007-2008 was \$17,676. The initial payment is due on the date the Energy Commission adopts the final decision. You will be notified of the amount due. All subsequent payments are due by July 1 of each year in which the

facility retains its certification. The payment instrument shall be made payable to the California Energy Commission and mailed to: Accounting Office MS-02, California Energy Commission, 1516 9th St., Sacramento, CA 95814.

Reporting of Complaints, Notices, and Citations (COMPLIANCE-10)

Prior to the start of construction, the project owner must send a letter to property owners living within one mile of the project notifying them of a telephone number to contact project representatives with questions, complaints or concerns. If the telephone is not staffed 24 hours per day, it shall include automatic answering with date and time stamp recording. All recorded complaints shall be responded to within 24 hours. The telephone number shall be posted at the project site and made easily visible to passersby during construction and operation. The telephone number shall be provided to the CPM who will post it on the Energy Commission's web page at:
http://www.energy.ca.gov/sitingcases/power_plants_contacts.html

Any changes to the telephone number shall be submitted immediately to the CPM, who will update the web page.

In addition to the monthly and annual compliance reporting requirements described above, the project owner shall report and provide copies to the CPM of all complaint forms, including noise and lighting complaints, notices of violation, notices of fines, official warnings, and citations, within 10 days of receipt. Complaints shall be logged and numbered. Noise complaints shall be recorded on the form provided in the **NOISE** conditions of certification. All other complaints shall be recorded on the complaint form (Attachment A).

FACILITY CLOSURE

At some point in the future, the project will cease operation and close down. At that time, it will be necessary to ensure that the closure occurs in such a way that public health and safety and the environment are protected from adverse impacts. Although the project setting for this project does not appear, at this time, to present any special or unusual closure problems, it is impossible to foresee what the situation will be in 30 years or more when the project ceases operation. Therefore, provisions must be made that provide the flexibility to deal with the specific situation and project setting that exist at the time of closure. Laws, Ordinances, Regulations and Standards (LORS) pertaining to facility closure are identified in the sections dealing with each technical area. Facility closure will be consistent with LORS in effect at the time of closure.

There are at least three circumstances in which a facility closure can take place: planned closure, unplanned temporary closure and unplanned permanent closure.

CLOSURE DEFINITIONS

Planned Closure

A planned closure occurs when the facility is closed in an anticipated, orderly manner, at the end of its useful economic or mechanical life, or due to gradual obsolescence.

Unplanned Temporary Closure

An unplanned temporary closure occurs when the facility is closed suddenly and/or unexpectedly, on a short-term basis, due to unforeseen circumstances such as a natural disaster or an emergency.

Unplanned Permanent Closure

An unplanned permanent closure occurs if the project owner closes the facility suddenly and/or unexpectedly, on a permanent basis. This includes unplanned closure where the owner implements the on-site contingency plan. It can also include unplanned closure where the project owner fails to implement the contingency plan, and the project is essentially abandoned.

COMPLIANCE CONDITIONS FOR FACILITY CLOSURE

Planned Closure (COMPLIANCE-11)

In order to ensure that a planned facility closure does not create adverse impacts, a closure process that provides for careful consideration of available options and applicable laws, ordinances, regulations, standards, and local/regional plans in existence at the time of closure, will be undertaken. To ensure adequate review of a planned project closure, the project owner shall submit a proposed facility closure plan to the Energy Commission for review and approval at least 12 months (or other period of time agreed to by the CPM) prior to commencement of closure activities. The project owner shall file 120 copies (or other number of copies agreed upon by the CPM) of a proposed facility closure plan with the Energy Commission.

The plan shall:

1. identify and discuss any impacts and mitigation to address significant adverse impacts associated with proposed closure activities and to address facilities, equipment, or other project related remnants that will remain at the site;
2. identify a schedule of activities for closure of the power plant site, transmission line corridor, and all other appurtenant facilities constructed as part of the project;
3. identify any facilities or equipment intended to remain on site after closure, the reason, and any future use; and
4. address conformance of the plan with all applicable laws, ordinances, regulations, standards, and local/regional plans in existence at the time of facility closure, and applicable conditions of certification.

Prior to submittal of the proposed facility closure plan, a meeting shall be held between the project owner and the Energy Commission CPM for the purpose of discussing the specific contents of the plan.

In the event that there are significant issues associated with the proposed facility closure plan's approval, or the desires of local officials or interested parties are inconsistent with the plan, the CPM shall hold one or more workshops and/or the Energy Commission may hold public hearings as part of its approval procedure.

As necessary, prior to or during the closure plan process, the project owner shall take appropriate steps to eliminate any immediate threats to public health and safety and the environment, but shall not commence any other closure activities until the Energy Commission approves the facility closure plan.

Unplanned Temporary Closure/On-Site Contingency Plan **(COMPLIANCE-12)**

In order to ensure that public health and safety and the environment are protected in the event of an unplanned temporary facility closure, it is essential to have an on-site contingency plan in place. The on-site contingency plan will help to ensure that all necessary steps to mitigate public health and safety impacts and environmental impacts are taken in a timely manner.

The project owner shall submit an on-site contingency plan for CPM review and approval. The plan shall be submitted no less than 60 days (or other time agreed to by the CPM) prior to commencement of commercial operation. The approved plan must be in place prior to commercial operation of the facility and shall be kept at the site at all times.

The project owner, in consultation with the CPM, will update the on-site contingency plan as necessary. The CPM may require revisions to the on-site contingency plan over the life of the project. In the annual compliance reports submitted to the Energy Commission, the project owner will review the on-site contingency plan, and recommend changes to bring the plan up to date. Any changes to the plan must be approved by the CPM.

The on-site contingency plan shall provide for taking immediate steps to secure the facility from trespassing or encroachment. In addition, for closures of more than 90 days, unless other arrangements are agreed to by the CPM, the plan shall provide for removal of hazardous materials and hazardous wastes, draining of all chemicals from storage tanks and other equipment, and the safe shutdown of all equipment. (Also see specific conditions of certification for the technical areas of Hazardous Materials Management and Waste Management.)

In addition, consistent with requirements under unplanned permanent closure addressed below, the nature and extent of insurance coverage, and major equipment warranties must also be included in the on-site contingency plan. In addition, the status of the insurance coverage and major equipment warranties must be updated in the annual compliance reports.

In the event of an unplanned temporary closure, the project owner shall notify the CPM, as well as other responsible agencies, by telephone, fax, or e-mail, within 24 hours and shall take all necessary steps to implement the on-site contingency plan. The project owner shall keep the CPM informed of the circumstances and expected duration of the closure.

If the CPM determines that an unplanned temporary closure is likely to be permanent, or for a duration of more than 12 months, a closure plan consistent with the

requirements for a planned closure shall be developed and submitted to the CPM within 90 days of the CPM's determination (or other period of time agreed to by the CPM).

Unplanned Permanent Closure/On-Site Contingency Plan (COMPLIANCE-13)

The on-site contingency plan required for unplanned temporary closure shall also cover unplanned permanent facility closure. All of the requirements specified for unplanned temporary closure shall also apply to unplanned permanent closure.

In addition, the on-site contingency plan shall address how the project owner will ensure that all required closure steps will be successfully undertaken in the event of abandonment.

In the event of an unplanned permanent closure, the project owner shall notify the CPM, as well as other responsible agencies, by telephone, fax, or e-mail, within 24 hours and shall take all necessary steps to implement the on-site contingency plan. The project owner shall keep the CPM informed of the status of all closure activities.

A closure plan, consistent with the requirements for a planned closure, shall be developed and submitted to the CPM within 90 days of the permanent closure or another period of time agreed to by the CPM.

Post Certification Changes to the Energy Commission Decision: Amendments, Ownership Changes, Insignificant Project Changes and Verification Changes (COMPLIANCE-14)

The project owner must petition the Energy Commission pursuant to Title 20, California Code of Regulations, section 1769, in order to modify the project (including linear facilities) design, operation or performance requirements, and to transfer ownership or operational control of the facility. **It is the responsibility of the project owner to contact the CPM to determine if a proposed project change should be considered a project modification pursuant to section 1769.** Implementation of a project modification without first securing Energy Commission, or Energy Commission staff approval, may result in enforcement action that could result in civil penalties in accordance with section 25534 of the Public Resources Code.

A petition is required for **amendments** and for **insignificant project changes** as specified below. Both shall be filed as a "Petition to Amend." Staff will determine if the change is significant or insignificant. For verification changes, a letter from the project owner is sufficient. In all cases, the petition or letter requesting a change should be submitted to the CPM, who will file it with the Energy Commission's Dockets Unit in accordance with Title 20, California Code of Regulations, section 1209.

The criteria that determine which type of approval and the process that applies are explained below. They reflect the provisions of Section 1769 at the time this condition was drafted. If the Commission's rules regarding amendments are amended, the rules in effect at the time an amendment is requested shall apply.

Amendment

The project owner shall petition the Energy Commission, pursuant to Title 20, California Code of Regulations, Section 1769(a), when proposing modifications to the project (including linear facilities) design, operation, or performance requirements. If a proposed modification results in deletion or change of a condition of certification, or makes changes that would cause the project not to comply with any applicable laws, ordinances, regulations or standards, the petition will be processed as a formal amendment to the final decision, which requires public notice and review of the Energy Commission staff analysis, and approval by the full Commission. The petition shall be in the form of a legal brief and fulfill the requirements of Section 1769(a). Upon request, the CPM will provide you with a sample petition to use as a template.

Change of Ownership

Change of ownership or operational control also requires that the project owner file a petition pursuant to section 1769 (b). This process requires public notice and approval by the full Commission. The petition shall be in the form of a legal brief and fulfill the requirements of Section 1769(b). Upon request, the CPM will provide you with a sample petition to use as a template.

Insignificant Project Change

Modifications that do not result in deletions or changes to conditions of certification, and that are compliant with laws, ordinances, regulations and standards may be authorized by the CPM as an insignificant project change pursuant to section 1769(a) (2). This process usually requires minimal time to complete, and it requires a 14-day public review of the Notice of Insignificant Project Change that includes staff's intention to approve the modification unless substantive objections are filed. These requests must also be submitted in the form of a "petition to amend" as described above.

Verification Change

Verification may be modified by the CPM without requesting an amendment to the decision if the change does not conflict with the conditions of certification and provides an effective alternate means of verification.

CBO DELEGATION AND AGENCY COOPERATION

In performing construction and operation monitoring of the project, Energy Commission staff acts as, and has the authority of, the Chief Building Official (CBO). Energy Commission staff may delegate CBO responsibility to either an independent third party contractor or the local building official. Energy Commission staff retains CBO authority when selecting a delegate CBO, including enforcing and interpreting state and local codes, and use of discretion, as necessary, in implementing the various codes and standards.

Energy Commission staff may also seek the cooperation of state, regional and local agencies that have an interest in environmental protection when conducting project monitoring.

ENFORCEMENT

The Energy Commission's legal authority to enforce the terms and conditions of its Decision is specified in Public Resources Code sections 25534 and 25900. The Energy Commission may amend or revoke the certification for any facility, and may impose a civil penalty for any significant failure to comply with the terms or conditions of the Energy Commission Decision. The specific action and amount of any fines the Energy Commission may impose would take into account the specific circumstances of the incident(s). This would include such factors as the previous compliance history, whether the cause of the incident involves willful disregard of LORS, oversight, unforeseeable events, and other factors the Energy Commission may consider.

NONCOMPLIANCE COMPLAINT PROCEDURES

Any person or agency may file a complaint alleging noncompliance with the conditions of certification. Such a complaint will be subject to review by the Energy Commission pursuant to Title 20, California Code of Regulations, section 1237, but in many instances the noncompliance can be resolved by using the informal dispute resolution process. Both the informal and formal complaint procedure, as described in current State law and regulations, are described below. They shall be followed unless superseded by future law or regulations.

The Energy Commission has established a toll free compliance telephone number of **1-800-858-0784** for the public to contact the Energy Commission about power plant construction or operation-related questions, complaints or concerns.

Informal Dispute Resolution Process

The following procedure is designed to informally resolve disputes concerning the interpretation of compliance with the requirements of this compliance plan. The project owner, the Energy Commission, or any other party, including members of the public, may initiate an informal dispute resolution process. Disputes may pertain to actions or decisions made by any party, including the Energy Commission's delegate agents.

This process may precede the more formal complaint and investigation procedure specified in Title 20, California Code of Regulations, section 1237, but is not intended to be a substitute for, or prerequisite to it. This informal procedure may not be used to change the terms and conditions of certification as approved by the Energy Commission, although the agreed upon resolution may result in a project owner, or in some cases the Energy Commission staff, proposing an amendment.

The process encourages all parties involved in a dispute to discuss the matter and to reach an agreement resolving the dispute. If a dispute cannot be resolved, then the matter must be brought before the full Energy Commission for consideration via the complaint and investigation procedure.

Request for Informal Investigation

Any individual, group, or agency may request the Energy Commission to conduct an informal investigation of alleged noncompliance with the Energy Commission's terms and conditions of certification. All requests for informal investigations shall be made to the designated CPM.

Upon receipt of a request for informal investigation, the CPM shall promptly notify the project owner of the allegation by telephone and letter. All known and relevant information of the alleged noncompliance shall be provided to the project owner and to the Energy Commission staff. The CPM will evaluate the request and the information to determine if further investigation is necessary. If the CPM finds that further investigation is necessary, the project owner will be asked to promptly investigate the matter. Within seven working days of the CPM's request, provide a written report to the CPM of the results of the investigation, including corrective measures proposed or undertaken. Depending on the urgency of the noncompliance matter, the CPM may conduct a site visit and/or request the project owner to also provide an initial verbal report, within 48 hours.

Request for Informal Meeting

In the event that either the party requesting an investigation or the Energy Commission staff is not satisfied with the project owner's report, investigation of the event, or corrective measures proposed or undertaken, either party may submit a written request to the CPM for a meeting with the project owner. Such request shall be made within 14 days of the project owner's filing of its written report. Upon receipt of such a request, the CPM shall:

1. immediately schedule a meeting with the requesting party and the project owner, to be held at a mutually convenient time and place;
2. secure the attendance of appropriate Energy Commission staff and staff of any other agencies with expertise in the subject area of concern, as necessary;
3. conduct such meeting in an informal and objective manner so as to encourage the voluntary settlement of the dispute in a fair and equitable manner;
4. After the conclusion of such a meeting, promptly prepare and distribute copies to all in attendance and to the project file, a summary memorandum that fairly and accurately identifies the positions of all parties and any understandings reached. If an agreement has not been reached, the CPM shall inform the complainant of the formal complaint process and requirements provided under Title 20, California Code of Regulations, section 1230 et seq.

Formal Dispute Resolution Procedure-Complaints and Investigations

Any person may file a complaint with the Energy Commission's Dockets Unit alleging noncompliance with a Commission decision adopted pursuant to Public Resources Code section 25500. Requirements for complaint filings and a description of how complaints are processed are in Title 20, California Code of Regulations, section 1237.

KEY EVENTS LIST

PROJECT: _____

DOCKET #: _____

COMPLIANCE PROJECT MANAGER: _____

EVENT DESCRIPTION	DATE
Certification Date	
Obtain Site Control	
Online Date	
POWER PLANT SITE ACTIVITIES	
Start Site Mobilization	
Start Ground Disturbance	
Start Grading	
Start Construction	
Begin Pouring Major Foundation Concrete	
Begin Installation of Major Equipment	
Completion of Installation of Major Equipment	
First Combustion of Gas Turbine	
Obtain Building Occupation Permit	
Start Commercial Operation	
Complete All Construction	
TRANSMISSION LINE ACTIVITIES	
Start T/L Construction	
Synchronization with Grid and Interconnection	
Complete T/L Construction	
FUEL SUPPLY LINE ACTIVITIES	
Start Gas Pipeline Construction and Interconnection	
Complete Gas Pipeline Construction	
WATER SUPPLY LINE ACTIVITIES	
Start Water Supply Line Construction	
Complete Water Supply Line Construction	

Compliance Table 1
Summary of Compliance Conditions of Certification

CONDITION NUMBER	SUBJECT	DESCRIPTION
COMPLIANCE-1	Unrestricted Access	The project owner shall grant Energy Commission staff and delegate agencies or consultants unrestricted access to the power plant site.
COMPLIANCE-2	Compliance Record	The project owner shall maintain project files on-site. Energy Commission staff and delegate agencies shall be given unrestricted access to the files.
COMPLIANCE-3	Compliance Verification Submittals	The project owner is responsible for the delivery and content of all verification submittals to the CPM, whether such condition was satisfied by work performed or the project owner or his agent.
COMPLIANCE-4	Pre-construction Matrix and Tasks Prior to Start of Construction	<p>Construction shall not commence until the all of the following activities/submittals have been completed:</p> <ul style="list-style-type: none"> ▪ property owners living within one mile of the project have been notified of a telephone number to contact for questions, complaints or concerns, ▪ a pre-construction matrix has been submitted identifying only those conditions that must be fulfilled before the start of construction, ▪ all pre-construction conditions have been complied with, ▪ the CPM has issued a letter to the project owner authorizing construction.
COMPLIANCE-5	Compliance Matrix	The project owner shall submit a compliance matrix (in a spreadsheet format) with each monthly and annual compliance report which includes the status of all compliance conditions of certification.
COMPLIANCE-6	Monthly Compliance Report including a Key Events List	During construction, the project owner shall submit Monthly Compliance Reports (MCRs) which include specific information. The first MCR is due the month following the Energy Commission business meeting date on which the project was approved and shall include an initial list of dates for each of the events identified on the Key Events List.

CONDITION NUMBER	SUBJECT	DESCRIPTION
COMPLIANCE-7	Annual Compliance Reports	After construction ends and throughout the life of the project, the project owner shall submit Annual Compliance Reports instead of Monthly Compliance Reports.
COMPLIANCE-8	Confidential Information	Any information the project owner deems confidential shall be submitted to the Energy Commission's Dockets Unit with a request for confidentiality.
COMPLIANCE-9	Annual fees	Payment of Annual Energy Facility Compliance Fee
COMPLIANCE-10	Reporting of Complaints, Notices and Citations	Within 10 days of receipt, the project owner shall report to the CPM, all notices, complaints, and citations.
COMPLIANCE-11	Planned Facility Closure	The project owner shall submit a closure plan to the CPM at least 12 months prior to commencement of a planned closure.
COMPLIANCE-12	Unplanned Temporary Facility Closure	To ensure that public health and safety and the environment are protected in the event of an unplanned temporary closure, the project owner shall submit an on-site contingency plan no less than 60 days prior to commencement of commercial operation.
COMPLIANCE-13	Unplanned Permanent Facility Closure	To ensure that public health and safety and the environment are protected in the event of an unplanned permanent closure, the project owner shall submit an on-site contingency plan no less than 60 days prior to commencement of commercial operation.
COMPLIANCE-14	Post-certification changes to the Decision	The project owner must petition the Energy Commission to delete or change a condition of certification, modify the project design or operational requirements and/or transfer ownership of operational control of the facility.

ATTACHMENT A
COMPLAINT REPORT/RESOLUTION FORM

PROJECT NAME: AFC Number:
COMPLAINT LOG NUMBER _____ Complainant's name and address: Phone number: _____
Date and time complaint received: Indicate if by telephone or in writing (attach copy if written): Date of first occurrence:
Description of complaint (including dates, frequency, and duration):
Findings of investigation by plant personnel: Indicate if complaint relates to violation of a CEC requirement: Date complainant contacted to discuss findings: _____
Description of corrective measures taken or other complaint resolution: Indicate if complainant agrees with proposed resolution: If not, explain: Other relevant information: If corrective action necessary, date completed: _____ Date first letter sent to complainant: _____ (copy attached) Date final letter sent to complainant: _____ (copy attached)
This information is certified to be correct. Plant Manager's Signature: _____ Date: _____

(Attach additional pages and supporting documentation, as required.)